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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/873,481 | 06/04/2001 | Douglas J. Kerkvliet | C535.12-0002 | 6544 |

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EXAMINER

REDMAN, JERRY E

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3634

DATE MAILED: 01/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

Office Action Summary

Application No.

09/873,481

Applicant(s)

KERKVLIT, DOUGLAS J.

Examiner

Jerry Redman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 49, 52-54, 57, and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by Andresen. Andresen discloses an overhead door assembly comprising a door panel (10) having a bottom member (16), first and second vertical side members (18 and 20), and a top member (14), hinging support members (66, 70, 72, and 74) connected to a top portion of the door panel (10), and a truss (27 and 28) supporting a bottom member (16).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 50, 51, 55, 56, 58, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andresen in view of Wentzel. All of the elements of the instant invention are discussed in detail above except providing a weatherstripping around the periphery of the closure. Wentzel discloses an overhead door assembly with weatherstripping extending around the periphery of the closure. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the overhead door assembly of Andresen with weatherstripping as taught by Wentzel since

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weatherstripping allows one to seal around and between an opening in a structure and the panel thereby sealing the building structure from the environment.

Claim 62 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andresen in view of Belgium patent to D'Haveloose. All of the elements of the instant invention are discussed in detail above except providing a ground anchoring device. Belgium patent to D'Haveloose discloses a ground anchoring device having a plate which mounts bolts to support vertical members. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Andresen with a ground anchoring assembly as taught by d'Haveloose since bolts anchored to the ground improves the rigidity of the vertical support members.

Claims 63 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andresen and D'Haveloose as applied to claim 62 above, and further in view of Mursinna. All of the elements of the instant invention are discussed in detail above except providing an operator in the form of a hydraulic cylinder which opens and closes the door panel. Mursinna discloses a door assembly having a 3-way hydraulic cylinder which operates the door to an opened and closed position. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Andresen with an automatic door assembly as taught by Mursinna since an automatic door assembly allows one to easily operate the door to an opened and closed position.

Claims 36, 38-41, 43-45, 48, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andresen in view of Mursinna. All of the elements of the instant invention are discussed in detail above except providing an operator in the form of a

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hydraulic cylinder which opens and closes the door panel. Mursinna discloses a door assembly having a 3-way hydraulic cylinder which operates the door to an opened and closed position. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Andresen with an automatic door assembly as taught by Mursinna since an automatic door assembly allows one to easily operate the door to an opened and closed position. With respect to claims 39 and 40, it would have been further obvious to one of ordinary skill in the art at the time of the invention to provide the door operator to move the door panel to an opened and closed position in a time interval of 28-32 seconds since this time interval would be sufficient to allow one to move into or out an opening and would be a matter of design choice.

Claims 37 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andresen and Mursinna as applied to claim 36 above, and further in view of Wentzel. All of the elements of the instant invention are discussed in detail above except providing a weatherstripping around the periphery of the closure. Wentzel discloses an overhead door assembly with weatherstripping extending around the periphery of the closure. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the overhead door assembly of Andersen with weatherstripping as taught by Wentzel since weatherstripping allows one to seal around and between an opening in a structure and the panel thereby sealing the building structure from the environment.

Claims 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andresen and Mursinna as applied to claim 36 above, and further in view of

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d'Haveloose. All of the elements of the instant invention are discussed in detail above except providing a ground anchoring device. Belgium patent to D'Haveloose discloses a ground anchoring device having a plate which mounts bolts to support vertical members. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Andresen with a ground anchoring assembly as taught by d'Haveloose since bolts anchored to the ground improves the rigidity of the vertical support members.


The applicant's arguments have been considered but are not deemed persuasive. The applicant argues that Andresen fails to disclose an external truss. Andresen clearly discloses an external truss in honeycomb elements 27 and 28 and they are at an end/external portion of the panel. Andresen broadly discloses an external truss. The applicant has failed to specifically define the claimed truss to read over Andresen. With respect to the applicant's arguments of Andresen in view of Mursinna, the applicant argues the references individually and not the combination thereof. The applicant merely states that "it would not have been obvious to one of ordinary skill in the art at the time of the invention to provide Andresen with an automatic assembly as taught by Mursinna". With respect to the applicants arguments of Andresen in view of D' Haveloose, the applicant again argues the references individually and not the combination thereof.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.



Jerry Redman
Primary Examiner